

PROVIDING THAT PAYMENTS BE MADE TO CERTAIN MEMBERS OF THE PINE RIDGE SIOUX TRIBE OF INDIANS AS REIMBURSEMENT FOR DAMAGES SUFFERED AS THE RESULT OF THE ESTABLISHMENT OF THE PINE RIDGE AERIAL GUNNERY RANGE, AND TO PROVIDE A REHABILITATION PROGRAM FOR THE PINE RIDGE SIOUX TRIBE OF INDIANS

MAY 29, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ENGLE, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 5838]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 5838) to provide that payments be made to certain members of the Pine Ridge Sioux Tribe of Indians as reimbursement for damages suffered as the result of the establishment of the Pine Ridge aerial gunnery range, and to provide a rehabilitation program for the Pine Ridge Sioux Tribe of Indians, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendment is as follows:

Page 2, line 10, following the word "heirs" insert the words "or devisees."

Page 2, line 12, following the word "heirs" insert the words "or devisees."

Page 2, line 16, change the period to a comma and add the words—

and the distribution of funds under this Act shall not be subject to any lien, except for debts owed to the United States or to Indian organizations indebted to the United States, and shall not be taxable.

Page 2, line 17, strike all of section 2 through page 3, line 3.

Page 3, line 4, renumber SEC. 3 (a) to read "SEC. 2."

Page 3, line 7, strike all of subsection (b) through page 3, line 13.

Amend the title so as to read:

A bill to provide that payments be made to certain members of the Pine Ridge Sioux Tribe of Indians as reimbursement for damages suffered as the result of the establishment of the Pine Ridge aerial gunnery range.

EXPLANATION OF THE BILL

The purpose of H. R. 5838, as amended, introduced by Congressman Berry, is to provide that payments be made to certain members of the Pine Ridge Sioux Tribe of Indians as reimbursement for damages suffered as the result of the establishment of the Pine Ridge aerial gunnery range in South Dakota. H. R. 5838, as amended, if enacted will pay the sum of \$3,500 to each of the 125 heads of families, or to the heirs of such heads of families who are deceased, or their devisees who have been determined by Congress and the Department of the Interior to have actually been domiciled on August 1, 1952, on the land belonging to the Pine Ridge Sioux Tribe of Indians, South Dakota, which was taken by the Department of the Army in 1942 for the Pine Ridge aerial gunnery range.

Payment of the \$437,500 (125 multiplied by \$3,500) shall be in full and complete settlement of all claims of such Indians and their heirs against the United States for damages suffered as the result of being forced to move from their homes and being forced to relocate and reestablish themselves elsewhere because such lands were taken for this gunnery range.

BACKGROUND OF THE BILL

In 1942 the Secretary of the Army selected for use as an aerial gunnery range a tract of land 43 miles long and 12½ miles wide in the northwestern part of the Pine Ridge Reservation in South Dakota, and subsequently disrupted the lives of some 10,600 Oglala Sioux Indians. In July 1942 representatives of the War Department filed condemnation proceedings on the lands taken.

The 125 Indian families involved in this legislation were ordered to vacate their homes and property in less than 30 days because the range was sorely needed by the Army for bombing practice. Many permanent improvements that had been made by the Indians had to be sacrificed. In spite of a 30-day delay brought about by ex-Congressman (now Senator) Case of South Dakota in vacating a portion of the reservation required for the gunnery range, the evacuation was carried out under adverse conditions resulting in considerable hardship and damage to personal possessions and property.

In due course, condemnation proceedings on behalf of the 125 families were filed by the Department of Justice on September 7, 1942, in the United States District Court for the District of South Dakota (Western District). Just compensation for the land as determined by the court in the sum of \$755,447.32 for the 231,681.44 acres taken from the tribe was paid to the former owners. Basis of appraisal was "the fair market value" or "just compensation" for the land and improvements considered as a unit; 95 percent of the land bought was grazing land and the remainder was considered cropland or meadow; average grazing-land price was \$2.371 per acre; cropland, \$7.526; for meadow, \$7.39.

The instant 125 families held 27,400 acres, for which they received the sum of \$83,000 for the land and \$34,000 for the improvements. The Department of Justice feels that the legal proceedings were properly and regularly conducted and the cost of damages has been judicially determined. Therefore, a reopening of the case could establish an undesirable precedent in connection with other Federal land transactions with Indians, both as regards those already settled and those arising in the future.

The Department of the Army concurs with the Department of Justice that just compensation has been paid for the land taking, but notes that section 1 of the bill provides that the payment of the sum specified therein shall be in full and complete settlement of all claims of certain Indians and their heirs against the United States for damages suffered as a result of being forced to move from their homes, and being forced to relocate and reestablish themselves elsewhere because such lands were taken for an aerial gunnery range. An existing statute (66 Stat. 624, sec. 401 (b)), approved July 14, 1952, authorizes the reimbursement of owners and tenants of lands used for residential or agricultural purposes to be acquired for public works projects of the military departments, the expense and other losses incurred by them in the process and as a direct result of the moving of themselves and their families and possessions because of such acquisition of land, provided, however, that a fully supported application for such reimbursement shall be made within 1 year following the date of acquisition. Obviously the 1-year provision cannot be met at this time, but it should be noted that following passage of the act of July 14, 1952, Congress has seen fit to provide reimbursement in a similar circumstance. An example is Public Law 776, 82d Congress, involving payments made to the Cheyenne River Sioux Tribe of South Dakota in conjunction with the construction of the Oahe Dam and Reservoir. The Secretary of the Army feels that the Secretary of the Interior is in a better position to determine whether these 125 families should be included under the act of July 14, 1952.

On December 24, 1952, the Secretary of the Interior recommended to the Committee on Interior and Insular Affairs that the following schedule of benefits for damages be made to the 125 Indian families actually domiciled on the gunnery range as of August 1, 1942:

New house and improvements (outbuildings, well, windmill, fencing, etc.) or apply on purchase of land if present housing is adequate.....	\$2, 000
Loss of income while moving, and before obtaining a job or becoming established over a period of 8 months, at \$100 a month.....	800
Moving expenses, including all costs of moving from former location by whatever means used.....	300
Unexpected costs of becoming established in new home.....	400
Total.....	3, 500

While it is recognized that \$2,000 will be inadequate to pay the cost of construction of the type of home required in the rigorous climate of South Dakota, it is felt that the sum will augment the amount received by the earlier judgment.

The Secretary of the Interior has also taken the position that the Sioux tribal members have not been adequately compensated by basing his conclusion on the following assertions:

- (1) Land values in 1942 when the appraisals were made were near a 40-year low;

(2) Rules governing appraisal were strict and made no allowance for disturbance values, or for the costs of relocation and reestablishment of the dispossessed families;

(3) Adequate channels for appeal from appraisals were not readily available to the Indians;

(4) The more generous settlements made with those who refused to accept the original appraisals led to the conclusion that they may have been low;

(5) Removal from social-security rolls (which resulted from payments being made) and collection on old-age assistance liens depleted the capital of individuals whose land was taken;

(6) Credit and rehabilitation funds were inadequate to meet the needs of those whose lands and homes were taken;

(7) The fact that oil and mineral rights had no known values did not warrant their being taken without compensation.

The Secretary of the Interior stated that the compensation received by the 125 families resulting from the condemnation proceedings included no allowance for loss of income while vacating the area, or for the cost of the relocation and reestablishment of homes elsewhere. The Secretary recognizes that early and conflicting notices to vacate the area caused much haste and confusion, resulting in monetary loss and distress to the Indians. He feels that the payment of an additional \$3,500 to each of the 125 families appears to be a reasonable settlement of their claims.

PREVIOUS LEGISLATION

A similar but not identical bill, H. R. 3060, was introduced and considered by the Subcommittee on Indian Affairs during the 83d Congress. This subcommittee held hearings on the Pine Ridge Reservation on this legislation in 1953 and 1955, and the gunnery range was visited in 1955.

AMENDMENTS

H. R. 5838, as introduced, was amended to delete section 2 and 3 (b) both of which have reference to a program of rehabilitation for all enrolled members of the Pine Ridge Sioux Tribe of Indians. Although the committee members recognize the merits of these provisions, they feel the rehabilitation program should be the subject of separate legislation.

The bill has also been amended in section 1 to provide that funds distributed under this act shall not be subject to any lien, except for debts owed to the United States or the Indian organizations indebted to the United States, and they shall not be taxable. The committee has included language of this nature in recent legislation concerning the distribution of per capita funds.

DEPARTMENTAL REPORTS

Reports from the Departments of the Interior, the Army, and Justice are as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., July 27, 1955.

Hon. CLAIR ENGLE,

*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.*

MY DEAR MR. ENGLE: Your committee has requested a report on H. R. 5838, a bill to provide that payments be made to certain members of the Pine Ridge Sioux Tribe of Indians as reimbursement for damages suffered as the result of the establishment of the Pine Ridge aerial-gunnery range, and to provide a rehabilitation program for the Pine Ridge Sioux Tribe of Indians.

We recommend that the bill be enacted if it is amended as suggested below.

The bill provides for the payment of \$3,500 to the head of each of the 125 Indian families that were domiciled on August 1, 1942, on lands of the Pine Ridge Sioux Indians that were taken in 1942 by the Army for an aerial-gunnery range. This amount totals \$437,500. If the head of the family is deceased the payment will be made to his heirs.

The circumstances surrounding the taking of the land from the Indians are described in a report prepared by the Bureau of Indian Affairs entitled "Investigation of Pine Ridge Aerial Gunnery Range Taking for the Committee on Interior and Insular Affairs, United States House of Representatives," dated April 10, 1952. The report was prepared at the request of the House Committee on Public Lands, and was submitted to your committee with our report dated May 19, 1954, on H. R. 3060, 83d Congress. The purchase price paid to the Indians included no allowance for loss of income while vacating the area, or for the cost of the relocation and reestablishment of homes elsewhere. Early and apparently conflicting notices to vacate the area caused much haste and confusion resulting in monetary loss and distress to the Indians. The payment of an additional \$3,500 to each family appears to be a reasonable settlement of their claims.

The bill also authorizes an appropriation of \$13,426,800 which shall be deposited in the Treasury of the United States and draw interest at 4 percent per annum until expended by the Secretary of the Interior for the rehabilitation of all enrolled members of the Pine Ridge Sioux Tribe of Indians without regard to whether they resided within the area of the gunnery range. We recognize the necessity for improving the economic and social status of many of our Indian people, and we are taking steps to meet the immediate need through effective programs of health, education, and economic development. Long-range programs are also being developed as rapidly as possible in cooperation with the Indian people and on the basis of a careful analysis of the problems and the potential development of reservation and nearby resources.

The Pine Ridge Sioux Reservation is one of the first reservations for which a complete economic survey and the development of a long-

range program are contemplated. Until these are completed, however, it is not possible to determine the type of program that is needed or to estimate its cost. The pending bill does not adequately meet the problem because it does not state specifically the purposes for which the money is to be spent or the results that are expected to be accomplished.

The following amendments to the bill are recommended:

1. On page 2, lines 10 and 12, after "heirs" insert "or devisees".
2. Delete all of section 2.
3. Delete all of subsection 3 (b).

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

DEPARTMENT OF THE ARMY,
Washington, D. C., August 1, 1955.

HON. CLAIR ENGLE,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H. R. 5838, 84th Congress, a bill to provide that payments be made to certain members of the Pine Ridge Sioux Tribe of Indians as reimbursement for damages suffered as the result of the establishment of the Pine Ridge aerial gunnery range, and to provide a rehabilitation program for the Pine Ridge Sioux Tribe of Indians. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The Department of the Army on behalf of the Department of Defense has considered the above-mentioned bill, the purpose of which is indicated in its title.

In establishing the Rapid City aerial gunnery range approximately 50 miles southeast of Rapid City, S. Dak., in 1942, the United States acquired 231,681.44 acres within the Pine Ridge Indian Reservation through a condemnation proceeding. In this proceeding, which was conducted under the supervision of the Department of Justice, the Indians were represented by Mr. W. O. Roberts, superintendent of the Pine Ridge Indian Reservation, on behalf of the Secretary of the Interior. Judgment entered in the proceeding provided for the payment of \$755,447.32 as just compensation for the taking of these lands. The property is used and controlled by the Department of the Air Force.

Section 1 of the bill provides that the payment of the sum specified therein shall be in full and complete settlement of all claims of certain Indians and their heirs against the United States for damages suffered as a result of being forced to move from their homes, and being forced to relocate and reestablish themselves elsewhere because such lands were taken for an aerial gunnery range. In this connection, it may be noted that section 401 (b) of the act of Congress approved July 14,

1952 (66 Stat. 624), as amended, authorizes the reimbursement of owners and tenants of lands used for residential or agricultural purposes to be acquired for public works projects of the military departments, the expenses and other losses and damages incurred by them in the process and as a direct result of the moving of themselves and their families and possessions because of such acquisition of land, provided, however, that a fully supported application for such reimbursement shall be made within 1 year following the date of acquisition. However, the problem posed by the bill as to whether similar payments should be made to the persons within the scope of section 1, or whether the broad rehabilitation program contemplated by section 2 of the bill should be undertaken, involves considerations of Federal policy applicable to the singular relationship existing between the Federal Government and Indian tribes, about which the Department of the Interior is in a better position to advise the committee.

Section 3 of the bill indicates that its enactment will involve the expenditure of Federal funds totaling \$13,864,300.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

DEPARTMENT OF JUSTICE,
April 19, 1956.

HON. CLAIR ENGLE,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 5838) to provide that payments be made to certain members of the Pine Ridge Sioux Tribe of Indians as reimbursement for damages suffered as the result of the establishment of the Pine Ridge aerial gunnery range, and to provide a rehabilitation program for the Pine Ridge Sioux Tribe of Indians.

The bill would authorize an appropriation of \$437,500 to provide for the payment of \$3,500 to each of 125 Indian families. It would provide that the payment of such sum "* * * shall be in full and complete settlement of all claims of such Indians and their heirs against the United States for damages suffered as a result of being forced to move from their homes, and being forced to relocate and reestablish themselves elsewhere because such lands were taken for an aerial gunnery range."

The bill also would authorize an appropriation of \$13,426,800 to be expended by the Secretary of the Interior for a program of rehabilitation for all enrolled members of the Pine Ridge Sioux Tribe of Indians, without regard to whether any particular member of such tribe was actually resident within the area taken for the aerial gunnery range at the time of taking. The program of rehabilitation would be directed to the improvement of the economic, social, religious, and community life of all such Indians, to the end that such Indians will

be placed in a condition at least as advantageous as the condition they would have been in if their land had not been taken for an aerial gunnery range.

The provision for the payment of \$3,500 to each of 125 Indian families is similar to a provision in the bill (H. R. 3060) in the 83d Congress and apparently is for the same purpose. The Department submitted an adverse report to your committee on this feature of the bill. As pointed out in that report the records show that the condemnation proceedings for the acquisition of land for the aerial gunnery range were properly and regularly conducted by this Department. Just compensation for this land, as determined by the court, was paid to the former owners. Where legal proceedings have been properly and regularly conducted and the matters involved have been judicially determined, such proceedings should not be used indirectly as justification for making further payments as here proposed. Such an approach could establish an undesirable precedent in connection with other Federal land transactions both as regards those already settled as well as those arising in the future.

The bill also appears to have for its purpose the rehabilitation of the Indian beneficiaries. The Department is not informed as to the considerations which are deemed to justify the appropriation for that purpose of \$13,426,800, plus interest at 4 percent until expended. However, it is to be noted from section 2 of the bill that the program of rehabilitation is designed in part at least, to place the Indians in a condition at least as advantageous as the condition they would have been in if their land had not been taken for an aerial gunnery range. Accordingly, to the extent that this appropriation is designed to provide additional payment for the acquisition of the land acquired and for which compensation has been paid it would seem objectionable.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

The Committee on Interior and Insular Affairs recommends enactment of H. R. 5838, as amended.

○